

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

In the Matter of the Application for Release of
Wanda Allen,

Petitioner

ORDER

[MHL '9.31]

A Patient Admitted to
Erie County Medical Center Corporation
Respondent

Index No: 817596/2024

The petitioner having been confined at the above-named hospital pursuant to medical certification which expires on January 20, 2025, and having demanded a hearing on the question of need for involuntary care and treatment and a hearing having been held on December 18, 2024, and the petitioner having failed to appear, and respondent hospital having appeared by Daniel C. Collins, Esq., counsel to Magavern Magavern Grimm LLP,

And respondent having requested that petitioner's demand for release be dismissed due to petitioner's failure to appear;

And due deliberation having been had,

IT IS HEREBY

ORDERED, that the petitioner's demand for release is dismissed without prejudice, and it is further,

ORDERED, the County Clerk shall seal all papers filed in this proceeding and may not exhibit the court record to anyone other than a party or, by Order of the Court, someone properly interested. Any publication of this matter, or reference made thereto, shall identify the subject of the petition by first and last initial.

Dated: December 18, 2024


Hon. Paula L. Feroleto, J.S.C.

Federal Rules of Appellate Procedure Form 1. Notice of Appeal to a Court of Appeals
From a Judgment or Order of a District Court.

United States District Court for the District of

Northern New York

File Number 81-8596/2024

Allen, Ward &

Plaintiff,

)

v.

)

Erie County Medical Center
Corporation Corp.

Defendant.

)

Notice of Appeal

Notice is hereby given that

(plaintiffs)
(defendants) in the above-named case*, hereby appeal to the United States Court of Appeals for
the 2d Circuit (from the final judgment) (from an order (describing it)) entered in this
action on the 4 day of December, 1984

/s/

Attorney for

Address:

*See Rule 3(c) for permissible ways of identifying appellants

City Court
of Buffalo, NY
State of New York
Supreme Court of
Erie County

At a Special Term of the Supreme Court held in and for the County of Erie at Erie County Medical Center Corporation, 462 Grider Street, 5th Floor, Buffalo, New York on the 4th day of December, 2024,

PRESENT: HON. KELLY A. VACCO, J.S.C.
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of

ORDER

Erie County Medical Center Corporation,

Index No.:
817596/2024

For an Order Authorizing the Involuntary Treatment of

WANDA ALLEN

A Patient

Upon the reading of the Notice of Petition with attached Verified Petition of Kerry Keleher, Risk Management Department, as Designee of Thomas J. Quattroche, Jr., Ph.D., Chief Executive Officer of Erie County Medical Center Corporation, sworn on the 25th day of November, 2024, the affidavit of Michael Guppenberger, M.D., sworn on the 25th day of November, 2024; and the affidavit of Yogesh Bakhai, M.D., sworn on the 27th day of November, 2024; and upon proceedings had before this Court on the 4th day of December, 2024, appearing the petitioner, by its attorney, Emily H. O'Reilly, Esq., of Magavern Magavern Grimm LLP; and the patient having not been present and represented by her attorney, Elizabeth Fortino, Esq., Director, Mental Hygiene Legal Service, Fourth Judicial Department, and Aileen M. McNamara, Esq., having been

appointed by the Court; and the patient having not been; and upon hearing the testimony of Michael Guppenberger, M.D., and the patient, WANDA ALLEN, did not also testify; and due deliberation having been had;

And, it appearing to the satisfaction of the Court that the patient, WANDA ALLEN, does not have the capacity to make a reasoned decision regarding treatment and the potential benefits of said treatments do outweigh potential risks thereof, it is hereby;

ORDERED, that the Application of an Order Authorizing Treatment is hereby granted as follows:

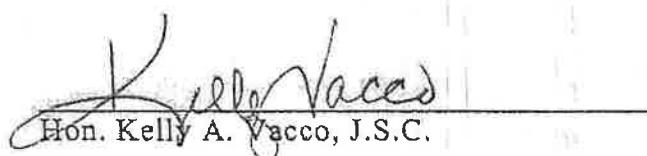
Risperdal up to 6 mg by mouth, or Zyprexa up to 30 mg intramuscularly if refusing oral Risperdal. Invega Sustenna intramuscularly with loading dose of 234 mg, then 156 a week later, then up to 234 mg monthly. Alternatively, Haldol up to 30 mg (intramuscularly if refuses oral medication) and Haldol Decanoate intramuscularly up to 200 mg monthly.

Such treatment/medications will be monitored and adjusted if the patient responds with an unfavorable medical condition. This Order shall be effective until the end of the patient's current legal status, which expires on January 20, 2025, and it is further

ORDERED, that the County Clerk shall seal all papers filed in this proceeding and may not exhibit the Court record to anyone other than a party, or, by Order of the Court, someone properly interested. Any publication of this matter, or reference made thereto, shall identify the subject by first and last initial.

ENTERED: Buffalo, New York

12-4-2024


Hon. Kelly A. Vacco, J.S.C.

M001498594
ALLEN,WANDA
DOB: [REDACTED] 59 SEX:F
V00007862241 ER

11/20/24

LEGAL STATUS RECORD DEPARTMENT OF
PSYCHIATRY (PG 1 OF 2)
E C M C
 ERIE COUNTY MEDICAL CENTER
 CORPORATION

DATE	Note status, change in status and all other related data.
	Patient was notified of his/her admission under the rights of the
	9.13 Status
	Minor 9.13 Status
	9.15 Status
11/21/24	9.27 Status
	9.37 Status
	9.39 Status
	9.40 Status
	He/She appeared to comprehend:
	Yes:
	No:
	Patient should be readvised:
	Yes:
	No:
	Patient was given hospital rights and responsibilities
	Yes:
	No:
	Staff Signature: <i>[Signature]</i>
11/29	Petition Given
12/2	Court Papers Faxed & Given
12/5	Moo 1/20 - NYS Mental Hygiene Moo-A is active until January 20 th 2025



M001498594
ALLEN,WANDA
DOB: [REDACTED] 59 SEX:F
V00007862241 ER

**LEGAL STATUS RECORD DEPARTMENT OF
PSYCHIATRY (PG 2 OF 2)**



At a Special Term of the Supreme Court held in and for the County of Erie at Erie County Medical Center Corporation, 462 Grider Street, 5th Floor, Buffalo, New York on the 4th day of December, 2024.

PRESENT: HON. KELLY A. VACCO, J.S.C.
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of

Erie County Medical Center Corporation,
For an Order Authorizing the Involuntary Treatment of

WANDA ALLEN

A Patient

ORDER

Index No.:
817596/2024

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appointed by the Court; and the patient having not been; and upon hearing the testimony of Michael Guppenberger, M.D., and the patient, WANDA ALLEN, did not also testify; and due deliberation having been had;

And, it appearing to the satisfaction of the Court that the patient, WANDA ALLEN, does not have the capacity to make a reasoned decision regarding treatment and the potential benefits of said treatments do outweigh potential risks thereof, it is hereby;

ORDERED, that the Application of an Order Authorizing Treatment is hereby granted as follows:

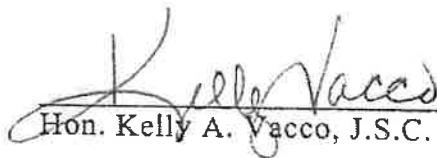
Risperdal up to 6 mg by mouth, or Zyprexa up to 30 mg intramuscularly if refusing oral Risperdal. Invega Sustenna intramuscularly with loading dose of 234 mg, then 156 a week later, then up to 234 mg monthly. Alternatively, Haldol up to 30 mg (intramuscularly if refuses oral medication) and Haldol Decanoate intramuscularly up to 200 mg monthly.

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ORDERED, that the County Clerk shall seal all papers filed in this proceeding and may not exhibit the Court record to anyone other than a party, or, by Order of the Court, someone properly interested. Any publication of this matter, or reference made thereto, shall identify the subject by first and last initial.

ENTERED: Buffalo, New York

12-4-2024


Hon. Kelly A. Vacco, J.S.C.

		Patient's Name (Last, First, M.I.)	C. No.
			11/21/24
		M001498594 ALLEN, WANDA	MCDOSOTH
		DOB: [REDACTED] 59	SEX: F
		V00007862241	PSY
		Facility Name:	Unit/Ward/Residence No.
		Admission Date:	Current Legal Status
		(Mo Day Yr)	

PART I REQUEST

TO: Facility Director

I REQUEST THAT A COURT HEARING BE HELD TO DETERMINE WHETHER THE
PATIENT NAMED ABOVE IS IN NEED OF INVOLUNTARY HOSPITALIZATION.

Signature		Print Name Signed	If Not Patient, State Relationship	Date Signed
X				
MO DAY YEAR				

PART II INFORMATION**Mental Hygiene Legal Service**

The Mental Hygiene Legal Service is an agency of the New York State Supreme Court which provides protective legal services, advice and assistance, including representation, to all patients admitted to psychiatric facilities. Patients are entitled to be informed of their rights regarding hospitalization and treatment, and have a right to a court hearing, to be represented by a lawyer, and to seek independent medical opinion.

There is a Mental Hygiene Legal Service office in many psychiatric hospitals. Where there is no office at the hospital, a representative of the Service visits periodically and frequently. Any patient or anyone in his or her behalf may see or communicate with a representative of the Service by telephoning or writing directly to the office of the Service or by requesting someone on the staff of the patient's ward to make such arrangements for him or her. The Mental Hygiene Legal Service representative for this hospital may be reached at:

State of New York
 Mental Hygiene Legal Service
 Fourth Judicial Department
 438 Main St Suite 400
 Buffalo, NY 14202-3211 (716)845-3650

General Information

Copies of any written request for a Court Hearing, along with a record of the patient, will be forwarded by the Director to the appropriate court and the Mental Hygiene Legal Service.

The Court Hearing will be held in the County in which the facility is located, unless a specific request for another location is made and is permitted by law.

You and other interested parties will be notified by the court as to the time and place of the hearing.

If you have any questions, feel free to ask any staff member of this facility for assistance.

December 2, 2024

VIA ELECTRONIC MAIL

Ellis Bozzolo, Chief Clerk
NYS Supreme Court
25 Delaware Ave
Buffalo, NY 14202

Re: Name: **Wanda Allen**
DOB: [REDACTED]
Unit: **5 zone 2**
Physician: **Michael Guppenberger, M.D.**

Dear Mr. Bozzolo:

Enclosed please find a Request for Court Hearing submitted by the above-named patient who is currently hospitalized on a Mental Health Hygiene Law §9.27 legal status.

Sincerely,

Martha Mumbach

Martha Mumbach
Risk Management Department

Enclosures

cc: Emily O'Reilly, Esq.
MHLS
Patient medical record
Patient



REQUEST FOR COURT HEARING (Before Signing See Information Below)		Patient's Name (Last, First, MI)	C No.
		M001498594 ALLEN, WANDA	11/21/24 MCDOSOTH
		DOB: [REDACTED] 59	SEX: F
		V00007862241	PSY
PART I REQUEST		Facility Name _____ Admission Date _____ Mo Day Yr _____	
TO: Facility Director		Unit/Ward/Residence No _____ Current Legal Status _____	

I REQUEST THAT A COURT HEARING BE HELD TO DETERMINE WHETHER THE PATIENT NAMED ABOVE IS IN NEED OF INVOLUNTARY HOSPITALIZATION.

Signature	Print Name Signed	If Not Patient, State Relationship	Date Signed
X	JAN 12/2/24	JAN 12/2/24	MO DAY YEAR

for Appeal 12/2/24

PART II INFORMATION

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You and other interested parties will be notified by the court as to the time and place of the hearing.

If you have any questions, feel free to ask any staff member of this facility for assistance.



Erie County Clerk
Buffalo, New York

APPLICATION for INDEX NUMBER
Pursuant to CPLR §8018

APPLICANT MUST PRINT or TYPE ALL THREE SECTIONS

TITLE of ACTION or PROCEEDING

THIRD PARTY ACTION

SUPREME COURT, ERIE COUNTY

Date: 12/02/2024

Erie County Medical Center Corporation,

Plaintiff or Petitioner

v

Wanda Allen,

A Patient at Erie County Medical Center Corporation

Defendant or Respondent

TYPE OF ACTION

- ARTICLE 78
- CONDEMNATION
- CONSERVATOR
- CONTRACT
- FORECLOSURE

- HABEAS CORPUS
- MENTAL HYGIENE
- MORTGAGE FORECLOSURE
- NAME CHANGE
- OTHER (Specify: _____)

- PARTITION
- SMALL CLAIMS APPEAL
- TAX CERTIORARI
- TORT

Magavern Magavern Grimm LLP 1100 Rand Building 14 Lafayette Square Buffalo, New York 14203

Name and Address of Attorney for Plaintiff or Petitioner

Mental Hygiene Legal Service, 438 Main Street, Suite 400, Buffalo, NY 14203

Name and Address of Attorney for Defendant or Respondent

ERIE COUNTY CLERK

TITLE of ACTION or PROCEEDING

Endorse this INDEX NUMBER
on ALL PAPERS pertaining
to this Action.

Erie County Medical Center Corporation

Plaintiff or Petitioner

v

Wanda Allen,

Do not write in this space

A Patient at Erie County Medical Center Corporation

Defendant or Respondent

RETAIN THIS COPY for YOUR RECORDS

STATE OF NEW YORK
SUPREME COURT, COUNTY OF ERIE

In the Matter of the Application of
ERIE COUNTY MEDICAL CENTER CORPORATION,

Petitioner,

For an Order Authorizing the Involuntary Treatment of

PETITION

Wanda Allen,

a patient at the Erie County Medical Center Corporation

Kerry Keleher, LPN, Nurse Consultant-Patient Advocacy, as the designee of the Petitioner, Erie County Medical Center Corporation ["ECMCC"], by Thomas Quattroche, Jr., Ph.D., Chief Executive Officer, respectfully states and alleges:

1. I am the Risk Management Assistant of the Erie County Medical Center Corporation and am the designee of Thomas Quattroche, Jr., Ph.D., Chief Executive Officer, of ECMCC.
2. As said designee, I am authorized to commence a proceeding pursuant to Mental Hygiene Law §33.03; 14 NYCRR Part 527 for Court authorization to treat **Wanda Allen**, ["the patient"] over objection.
3. The patient is admitted to ECMCC, and, upon information and belief, is presently suffering from a mental illness for which the patient is refusing treatment.
4. The patient has been evaluated by **Michael Guppenberger, M.D.** and **Yogesh Bakhai, M.D.**, whose affirmations and evaluations are appended hereto and made a part hereof. The two physicians have determined that the proposed treatment is in the

patient's best interests and that the patient lacks capacity to make a reasoned decision concerning such treatment.

5. No previous application has been made for the relief sought herein.

WHEREFORE, Petitioner respectfully requests that:

1. The Court appoint an attorney to represent the patient in these proceedings;
2. An Order of the Court be granted authorizing involuntary treatment of the patient, including, but not limited to, administration of medication as prescribed by the treating physician; and
3. Petitioner have such other and further relief as to the Court may deem just and proper.



Kerry Keleher, LPN, Nurse Consultant-Patient Advocacy
as designee of
Thomas Quatrocchi, Jr., Ph.D.,
Chief Executive Officer
Erie County Medical Center Corporation

STATE OF NEW YORK
SUPREME COURT, COUNTY OF ERIE

In the Matter of the Application of
ERIE COUNTY MEDICAL CENTER CORPORATION,

Petitioner,

For an Order Authorizing the Involuntary Treatment of

PETITION

Wanda Allen,

a patient at the Erie County Medical Center Corporation

Kerry Keleher, LPN, Nurse Consultant-Patient Advocacy, as the designee of the Petitioner, Erie County Medical Center Corporation ["ECMCC"], by Thomas Quattroche, Jr., Ph.D., Chief Executive Officer, respectfully states and alleges:

1. I am the Risk Management Assistant of the Erie County Medical Center Corporation and am the designee of Thomas Quattroche, Jr., Ph.D., Chief Executive Officer, of ECMCC.
2. As said designee, I am authorized to commence a proceeding pursuant to Mental Hygiene Law §33.03; 14 NYCRR Part 527 for Court authorization to treat **Wanda Allen**, ["the patient"] over objection.
3. The patient is admitted to ECMCC, and, upon information and belief, is presently suffering from a mental illness for which the patient is refusing treatment.
4. The patient has been evaluated by **Michael Guppenberger, M.D.** and **Yogesh Bakhai, M.D.**, whose affirmations and evaluations are appended hereto and made a part hereof. The two physicians have determined that the proposed treatment is in the

patient's best interests and that the patient lacks capacity to make a reasoned decision concerning such treatment.

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1. The Court appoint an attorney to represent the patient in these proceedings;
2. An Order of the Court be granted authorizing involuntary treatment of the patient, including, but not limited to, administration of medication as prescribed by the treating physician; and
3. Petitioner have such other and further relief as to the Court may deem just and proper.



Kerry Keleher, LPN, Nurse Consultant-Patient Advocacy
as designee of
Thomas Quatrocchi, Jr., Ph.D.,
Chief Executive Officer
Erie County Medical Center Corporation

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

Kerry Keleher, LPN, Nurse Consultant-Patient Advocacy, as designee of Thomas Quatrocche, Jr., Ph.D., Chief Executive Officer of the Erie County Medical Center Corporation, being duly sworn, deposes and says:

That I am the designee of the Petitioner named in the foregoing Petition, that I duly executed the same, and that the contents of said Petition are true to my own knowledge, except as to the facts alleged upon information and belief, and that as to those facts, I believe the same to be true.



Kerry Keleher, LPN, Nurse Consultant-Patient Advocacy
as designee of
Thomas Quatrocche, Jr., Ph.D.,
Chief Executive Officer
Erie County Medical Center Corporation

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of
 Erie County Medical Center Corporation

Petitioner,

For an Order Authorizing the Involuntary Treatment of
 WANDA ALLEN,

NOTICE OF PETITION

Index No. _____

A Patient at the Erie County Medical Center Corporation

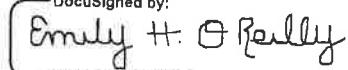
PLEASE TAKE NOTICE that a Petition for an Order Authorizing the Involuntary Treatment of WANDA ALLEN pursuant to Mental Hygiene Law §33.03 and 14 NYCRR §527.8, has been made by ERIE COUNTY MEDICAL CENTER CORPORATION, Martha Mumbach, Risk Management Department, as Designee of Thomas J. Quatrocche, Jr., Ph.D., Chief Executive Officer, and is supported by the attached affidavits and evaluations of Michael Guppenberger, M.D. and Yogesh Bakhai, M.D., and all prior pleadings and proceedings heretofore had in this matter.

Said Petition is returnable at the Courthouse, Erie County Medical Center Corporation, 462 Grider Street, 5th Floor, Buffalo, New York, on the 4th day of December, 2024 at 9:30 a.m. or as soon thereafter as counsel can be heard.

Dated: November 27, 2024
 Buffalo, New York

MAGAVERN MAGAVERN GRIMM LLP

DocuSigned by:


 811C767C42D04BF

Emily H. O'Reilly, Esq.
 Attorneys for Petitioner
 1100 Rand Building
 14 Lafayette Square
 Buffalo, New York 14203
 (716) 856-3500

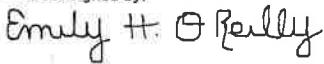
TO: WANDA ALLEN
c/o Erie County Medical Center Corporation
462 Grider Street
Buffalo, New York 14215

Mental Hygiene Legal Service
438 Main Street - Suite 400
Buffalo, New York 14202

Affirmation of Service

Emily H. O'Reilly, Esq., affirms that on November 27, 2024, a true and complete copy of the foregoing Notice of Petition and supporting documentation will be delivered by hand to the Mental Hygiene Legal Service by Magavern Magavern Grimm LLP at their address indicated above, and in accordance with the standard procedure a true and complete copy of the Notice of Petition and supporting documentation will be hand delivered to the patient by Martha Mumbach or her designee, an employee of the Erie County Medical Center Corporation.

Dated: November 27, 2024

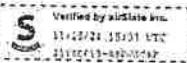
DocuSigned by:

811C767C42D04BE...

Emily H. O'Reilly, Esq.

treatment contained in the attached "Evaluation for Treatment Over Objection" appended to the application herein, is in the patient's best interests.

6. I respectfully request that this Court grant the application for authorization of treatment of **Wanda Allen**, in accordance with the treatment plan described in the attached "Evaluation for Treatment Over Objection".

Date: 11/27/2024

ybakhai 
Yogesh Bakhai, M.D.

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

In the Matter of the Application of
ERIE COUNTY MEDICAL CENTER CORPORATION,

Petitioner,

For an Order Authorizing the Involuntary Treatment of

**AFFIRMATION
IN SUPPORT BY
REVIEWING
PHYSICIAN**

Wanda Allen

A Patient at the Erie County Medical Center Corporation

STATE OF NEW YORK)
COUNTY OF ERIE)

Yogesh Bakhai, M.D. being duly sworn, deposes and says:

1. I am a physician duly licensed to practice in the State of New York.
2. I affirm under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.
3. I submit this Affirmation in support of the application of the Erie County Medical Center Corporation to treat **Wanda Allen**, ("the patient") over objection in accordance with Mental Hygiene Law §33.03; 14 NYCRR §527.8.
4. I have completed an evaluation of the patient by reviewing the patient's records and physically examining the patient.
5. It is my opinion and belief that the patient is presently suffering from a mental illness, lacks capacity to make a reasoned decision concerning treatment, and that the proposed

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

In the Matter of the Application of
ERIE COUNTY MEDICAL CENTER CORPORATION,

Petitioner,
For an Order Authorizing the Involuntary Treatment of
Wanda Allen,

**AFFIRMATION
IN SUPPORT BY
TREATING
PHYSICIAN**

a Patient at the Erie County Medical Center Corporation.

STATE OF NEW YORK)
COUNTY OF ERIE) SS

Michael Guppenberger, M.D. being duly sworn, deposes and says:

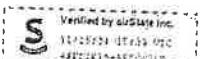
1. I am a physician duly licensed to practice in the State of New York.
2. I affirm under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.
3. I submit this Affirmation in support of the application of the Erie County Medical Center Corporation to treat Wanda Allen, ["the patient"] over objection in accordance with Mental Hygiene Law §33.03; 14 NYCRR §527.8.
4. I am familiar with the patient in that I am the patient's treating physician, and I have formally evaluated the patient's condition.

5. It is my opinion and belief that the patient is presently suffering from a mental illness and lacks capacity to make reasoned decisions concerning treatment. The basis for the opinion is described in the "Evaluation for Treatment Over Objection" that is appended hereto and incorporated herein by reference.

6. Having taken into consideration the risks, benefits, and alternatives to treatment, as well as the nature of the patient's objection to the treatment, it is my opinion that it would be in the best interests of the patient to be treated according to the proposed course of treatment outlined in the attached "Evaluation for Treatment Over Objection."

7. For the above-stated reasons, I respectfully request that this Court grant the application for authorization of treatment of **Wanda Allen**, in accordance with the treatment plan described in the attached Evaluation.

Date: 11/25/2024

Michael T Guppenberger MD  Verified by eSignSafe Inc.
11/25/2024 11:45 AM UTC
4472215-AE9A-4A8C-BE8D-000000000000

Michael Guppenberger, M.D.